



General Assembly

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Amendment

LCO No. 7207

SB0114807207SR0

Offered by:

SEN. CAPPIELLO, 24th Dist.

REP. GODFREY, 110th Dist.

To: Subst. Senate Bill No. 1148

File No. 545

Cal. No. 336

"AN ACT CONCERNING OUTPATIENT SURGICAL FACILITIES."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (a) of section 19a-637 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *October 1, 2003*):

6 (a) In any of its deliberations involving a proposal, request or
7 submission regarding rates or services by a health care facility or
8 institution, the office shall take into consideration and make written
9 findings concerning each of the following principles and guidelines:
10 The relationship of the proposal, request or submission to the state
11 health plan; the relationship of the proposal, request or submission to
12 the applicant's long-range plan; the financial feasibility of the proposal,
13 request or submission and its impact on the applicant's rates and
14 financial condition; the impact of such proposal, request or submission

15 on the interests of consumers of health care services and the payers for
16 such services; the contribution of such proposal, request or submission
17 to the quality, accessibility and cost-effectiveness of health care
18 delivery in the region; whether there is a clear public need for any
19 proposal or request within the applicant's historical service area or the
20 geographical area to be served by the applicant; whether the health
21 care facility or institution is competent to provide efficient and
22 adequate service to the public in that such health care facility or
23 institution is technically, financially and managerially expert and
24 efficient; that rates be sufficient to allow the health care facility or
25 institution to cover its reasonable capital and operating costs; the
26 relationship of any proposed change to the applicant's current
27 utilization statistics; the teaching and research responsibilities of the
28 applicant; the special characteristics of the patient-physician mix of the
29 applicant; the voluntary efforts of the applicant in improving
30 productivity and containing costs; and any other factors which the
31 office deems relevant, including, in the case of a facility or institution
32 as defined in subsection (c) of section 19a-490, such factors as, but not
33 limited to, the business interests of all owners, partners, associates,
34 incorporators, directors, sponsors, stockholders and operators and the
35 personal backgrounds of such persons. Whenever the granting,
36 modification or denial of a request is inconsistent with the state health
37 plan, a written explanation of the reasons for the inconsistency shall be
38 included in the decision.

39 Sec. 502. Subsection (b) of section 19a-638 of the general statutes is
40 repealed and the following is substituted in lieu thereof (*Effective*
41 *October 1, 2003*):

42 (b) The office shall make such review of a request made pursuant to
43 subdivision (1), (2) or (3) of subsection (a) of this section as it deems
44 necessary. In the case of a proposed transfer of ownership or control,
45 the review shall include, but not be limited to, the financial
46 responsibility and business interests of the transferee and the ability of
47 the institution to continue to provide needed services or, in the case of
48 the introduction of a new or additional function or service expansion

49 or the termination of a service or function, ascertaining the availability
50 of and proximity to such service or function at other inpatient
51 rehabilitation facilities, health care facilities or institutions or state
52 health care facilities or institutions or other providers within the area
53 to be served, including geographically contiguous states, the need for
54 such service or function within such area and any other factors which
55 the office deems relevant to a determination of whether the facility or
56 institution is justified in introducing or terminating such functions or
57 services into or from its program, including a consideration of market
58 share comprised of individuals residing within Connecticut and the
59 geographically contiguous states. The office shall grant, modify or
60 deny such request within ninety days of the receipt of a complete
61 application, except as provided for in this section. Upon the request of
62 the applicant, the review period may be extended for an additional
63 fifteen days if the office has requested additional information
64 subsequent to the commencement of the review period. The
65 commissioner may extend the review period for a maximum of thirty
66 days if the applicant has not filed in a timely manner information
67 deemed necessary by the office. Failure of the office to act on such
68 request within such review period shall be deemed approval thereof.
69 The ninety-day review period, pursuant to this subsection, for an
70 application filed by a hospital, as defined in section 19a-490, and
71 licensed as a short-term acute-care general hospital or children's
72 hospital by the Department of Public Health or an affiliate of such a
73 hospital or any combination thereof, shall not apply if, in the certificate
74 of need application or request, the hospital or applicant projects either
75 (1) that, for the first three years of operation taken together, the total
76 impact of the proposal on the operating budget of the hospital or an
77 affiliate of such a hospital or any combination thereof will exceed one
78 per cent of the actual operating expenses of the hospital for the most
79 recently completed fiscal year as filed with or determined by the office,
80 or (2) that the total capital expenditure for the project will exceed
81 fifteen million dollars. If the office determines that an application is not
82 subject to the ninety-day review period pursuant to this subsection, it
83 shall remain so excluded for the entire review period of that

84 application, even if the application or circumstances change and the
85 application no longer meets the stated terms of the exclusion. Upon a
86 showing by such facility or institution that the need for such function,
87 service or termination or change of ownership or control is of an
88 emergency nature, in that the function, service or termination or
89 change of ownership or control is necessary to comply with
90 requirements of any federal, state or local health, fire, building or life
91 safety code, the commissioner may waive the letter of intent
92 requirement, provided such request shall be submitted at least ten
93 business days before the proposed date of institution of the function,
94 service or termination or change of ownership or control.

95 Sec. 503. Subsection (b) of section 19a-639 of the general statutes is
96 repealed and the following is substituted in lieu thereof (*Effective*
97 *October 1, 2003*):

98 (b) The office shall hold a public hearing with respect to any
99 complete certificate of need request under this section, at least two
100 weeks' notice of which shall be given to the facility, institution or
101 provider by certified mail and to the public by publication in a
102 newspaper having a substantial circulation in the area served by the
103 facility, institution or provider. The commissioner shall notify the
104 Commissioner of Social Services of any application that may impact on
105 expenditures under the state medical assistance program. Such hearing
106 shall be held at the discretion of the office in Hartford or in the area so
107 served or to be served. The office shall consider such request in
108 relation to the community or regional need, including that of the
109 geographically contiguous states, for such capital program or purchase
110 of land, the possible effect on the operating costs of the health care
111 facility or institution and such other relevant factors as the office
112 deems necessary. In approving or modifying such request, the
113 commissioner may not prescribe any condition, such as but not limited
114 to, any condition or limitation on the indebtedness of the facility or
115 institution in connection with a bond issue, the principal amount of
116 any bond issue or any other details or particulars related to the
117 financing of such capital expenditure, not directly related to the scope

118 of such capital program and within control of the facility or institution.
119 An applicant, prior to submitting a certificate of need application, shall
120 submit a request, in writing, for application forms and instructions to
121 the office. The request shall be known as a letter of intent. A letter of
122 intent shall conform to the letter of intent requirements of subdivision
123 (4) of subsection (a) of section 19a-638. No certificate of need
124 application will be considered submitted to the office unless a current
125 letter of intent, specific to the proposal and in compliance with this
126 subsection, is on file with the office at least sixty days. A current letter
127 of intent is a letter of intent which has been on file at the office no more
128 than one hundred twenty days, except that an applicant may request a
129 one-time extension of a letter of intent of up to an additional thirty
130 days for a maximum total of up to one hundred fifty days if, prior to
131 the expiration of the current letter of intent, the office receives a
132 written request to so extend the letter of intent's current status. The
133 extension request shall fully explain why an extension is requested.
134 The office shall accept or reject the extension request within five
135 business days and shall so notify the applicant. Upon a showing by
136 such facility or institution that the need for such capital program is of
137 an emergency nature, in that the capital expenditure is necessary to
138 comply with any federal, state or local health, fire, building or life
139 safety code, the commissioner may waive the letter of intent
140 requirement and that a public hearing be held, provided such request
141 shall be submitted at least ten business days before the proposed
142 initiation date of the project. The commissioner shall grant, modify or
143 deny such request within ninety days or within ten business days, as
144 the case may be, of receipt thereof, except as provided for in this
145 section. Upon the request of the applicant, the review period may be
146 extended for an additional fifteen days if the office has requested
147 additional information subsequent to the commencement of the review
148 period. The commissioner may extend the review period for a
149 maximum of thirty days if the applicant has not filed, in a timely
150 manner, information deemed necessary by the office. Failure of the
151 office to act thereon within such review period shall be deemed
152 approval of such request. The ninety-day review period, pursuant to

153 this section, for an application filed by a hospital, as defined in section
154 19a-490, and licensed as a short-term acute-care general hospital or a
155 children's hospital by the Department of Public Health or an affiliate of
156 such a hospital or any combination thereof, shall not apply if, in the
157 certificate of need application or request, the hospital or applicant
158 projects either (1) that, for the first three years of operation taken
159 together, the total impact of the proposal on the operating budget of
160 the hospital or an affiliate or any combination thereof will exceed one
161 per cent of the actual operating expenses of the hospital for the most
162 recently completed fiscal year as filed with the office, or (2) that the
163 total capital expenditure for the project will exceed fifteen million
164 dollars. If the office determines that an application is not subject to the
165 ninety-day review period pursuant to this subsection, it shall remain
166 so excluded for the entire period of that application, even if the
167 application or circumstances change and the application no longer
168 meets the stated terms of the exclusion. The office shall adopt
169 regulations to establish an expedited hearing process to be used to
170 review requests by any facility or institution for approval of a capital
171 expenditure to establish an energy conservation program or to comply
172 with requirements of any federal, state or local health, fire, building or
173 life safety code or final court order. The office shall adopt regulations
174 in accordance with the provisions of chapter 54 to provide for the
175 waiver of a hearing, for any part of a request by a facility or institution
176 for a capital expenditure, provided such facility or institution and the
177 office agree upon such waiver."